IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 18677 of 2000

Between:

B.Narasimulu, s/o B.Pedda Ramanna, aged 35 years,

Occ: Agriculture, R/o Uppair, Mahaboobnagar Dist.

..... PETITIONER

AND

1. The Prohibition and Excise Superintendent,

Mahaboobnagar District.

2. The Prohibition and Excise Inspector, Station House

Officer, Gadwal, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of Mandamus or any other appropriate writ; order or orders directing the respondents to quash the same as illegal as without jurisdiction passed under Section 8 of the Revenue Recovery Act, dated 4.11.1999.

Counsel for the Petitioner:MR.S.VENKATESWARA REDDY

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

The petitioner herein who was an Excise licence holder and who was running a wine shop, filed this Writ Petition *inter alia* challenging the action of the respondents herein in taking proceedings under the provisions of the A.P. Revenue Recovery Act, by issuing notice under Section 8, thereof on 04-11-1999.

2. The case of the petitioner is that he was granted licence and was running a wine shop, however, due to some troubles, he had closed down the shop and the same was done on an application filed by himself and also under the panchanama conducted by the respondents themselves; therefore they are fully aware of the closure of the shop on 01-01-1995 and thereafter, no business was conducted to the knowledge of the respondents themselves. In spite of the same, the respondents have straight away taken recourse of recovery under the provisions of the A.P. Revenue Recovery Act, which is totally illegal.

3. In the counter affidavit filed on behalf of the respondents, it is submitted that as per the contract, the petitioner has to pay entire amount, which cannot be given any waiver and as such petitioner is not entitled to any benefit by mere closure.

4. Having considered the submissions made and also on perusal of the material on record, it is seen that it is only due to some local troubles, the petitioner has closed down the shop and it is to the knowledge of the respondents the panchanama was conducted. However, the respondents have straight away

issued notice under Section 8 of the Act, for recovery, without giving any notice or opportunity to the petitioner.

5. In the circumstances, it is suffice in the interest of justice to direct the petitioner herein to file a comprehensive representation pointing out all the circumstances leading to the closure of the business and also seeking any benefit thereby, either for waiver or otherwise which can be considered on merits and also in proper perspective and dispose of in accordance with law after giving notice to the petitioner.

6. The Writ Petition is accordingly disposed of. The petitioner shall file a fresh representation within a period of four weeks from today, and the same shall be disposed of by the respondents within a period of two months thereafter. It is needless to mention that till the disposal of the said representation, respondents shall not take recourse to the recovery.

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B.PRAKASH RAO,J.

DATED 04TH AUGUST, 2004.

BSB/MRR

To

1. The Prohibition and Excise Superintendent,

Mahaboobnagar District.

2. The Prohibition Excise Inspector, Station House Officer,

Gadwal, Mahaboobnagar District.

3. Two CCs to the Government Pleader for Prohibition & Excise, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.